First Nations Water Rights in British Columbia

A Historical Summary of the rights of the Namgis First Nation

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WATER MANAGEMENT BRANCH

FIRST NATIONS WATER RIGHTS IN BRITISH COLUMBIA:

A Historical Summary of the rights of the Namgis First Nation

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Prepared for publication:	February, 2000

Canadian Cataloguing in Publication Data
Jolly, Diana.
First Nations water rights in British Columbia. A historical summary of the rights of the Namgis First Nation

ISBN 0-7726-4180-3

1. Water rights - British Columbia - Alert Bay Indian Reserve No. 1. 2. Water rights - British Columbia - Alert Bay Indian Reserve No. 1A. 3. Water rights - British Columbia - Nimpkish Indian Reserve No. 2. 4. Kwakiutl Indians - British Columbia - Cormorant Island - Government relations. I. JOL Consulting (Firm) II. Robinson, Gary W. III. British Columbia. Water Management Branch. IV. Title. V. Title: Historical summary of the rights of the Namgis First Nation.

KEB529.5.W3J658 2000 346.71104'32 C00-960098-1
KF8210.W38J658 2000

ACKNOWLEDGMENTS

The Ministry of Environment, Lands and Parks wishes to acknowledge three partners whose contributions were invaluable in the completion of the *Aboriginal Water Rights Report Series:*

The Ministry of Aboriginal Affairs, was a critical source of funding, support and direction for this project.

The U-Vic Geography Co-op Program, was instrumental in providing the staffing resources needed to undertake this challenging task. Through the services of June Whitmore and her office, the project benefited from the research, writing, editing and co-ordination of these outstanding students:

Jas Gill
Julie Steinhauer
Kelly Babcock
Daniella Mogus
Miranda Griffith
Christina Rocha
Rachel Abrams
Elizabeth Lee
Sara Cheevers

The services of Clover Point Cartographics Limited of Victoria, was responsible for the preparation of most of the map drawings, which form a valuable part of these documents.

In addition to these three key partners, I must acknowledge the valuable contributions of other Water Management staff, past and present, including Jack Farrell, Jim Mattison, Richard Penner, Diana Jolly, Greg Blaney, Gary Lucas and Kim Johnston.

The sheer numbers of First Nations groups' with histories of water rights made the completion of the Report Series seem, at times, prolonged. The determination, patience and vision of the partners was essential in the completion of the Series and is gratefully acknowledged.

Gary Robinson
Project Manager
Water Management Branch

TABLE OF CONTENTS

LOCATION 1

WATER ALLOCATIONS 2

HISTORY, CURRENT STATUS, AND NOTES 3

ALERT BAY #1, ALERT BAY #1A & NIMPKISH # 2 3

All Water Sources 2
History 2
Current Status 3
Notes 3

OTHER INFORMATION 3
Alternate Water Sources 3
Groundwater Records 3
Municipal Water Sources 3

APPENDICES:

TAB NO.

1. TABLE: Summary of Water Rights Record for the NAMGIS First Nation.

2. RECORD OF MINUTE OF DECISION (AGBC #590456)

3. COPY OF THE DATA SUMMARY OF GROUNDWATER RECORDS IN THE NAMGIS RESERVES AREA.

4. MAP: NAMGIS First Nation Reserves and area.

FIRST NATIONS WATER RIGHTS REPORT

BAND: NAMGIS (Formally Nimpkish)

ADDRESS: P.O. Box 210, Alert Bay, B.C., V0N 1A0

CHIEF: Patrick Alfred

PHONE: 974-5556 **FAX:** 974-5900

AFFILIATION: Musgamagw Tsawataineuk Tribal Council

LOCATION:

The NAMGIS First Nation occupies eight reserves at the north end of Vancouver Island, near Alert Bay.

These reserves are:

Alert Bay 1	Alert Bay 1A	Ar-ce-wy-ee 4
Ches-la-kee 3	Ksui-la-das 6	Kuldekduma 7
Nimpkish 2	O-tsaw-las 5	

Only three of the NAMGIS First Nation's reserves have a history of water allocations.

These reserves are:

- ¥ Alert Bay 1 - this 22 hectare reserve is located in the middle of Cormorant Island, which is across Broughton Strait from northern Vancouver Island.
- ¥ Alert Bay 1A - this 161.8 hectare reserve is located on the west side of Cormorant Island.
- ¥ Nimpkish 2 - this 0.6 hectare reserve is located on the southeastern end of Cormorant Island.

Located on northern Vancouver Island and on islands off the northeast coast of Vancouver Island, these reserves sit at elevations ranging from sea level to 300 feet above sea level, and experience a climate ranging from an average daily temperature of 0 to 5 degrees centigrade in January to 16 degrees centigrade in July. The average annual rainfall for this area is 100 to 250 centimetres.

The most recent population figures from the Ministry of Finance show the NAMGIS First Nation to have a population of 716 persons living on-reserve as registered members. It's total population, including registered and non-registered members living on-reserve, on crown land and off-reserve is 1,358.

Water courses of significance include:

¥ All sources of water supply on Cormorant Island.

WATER ALLOCATIONS:

There is no record of any allocations by an Order in Council of the Lieutenant Governor in Council, nor any orders of the Board of Investigation with respect to the NAMGIS First Nation. Similarly, there is no record of any licences granted to the Band by the Province. However, water rights of the NAMGIS First Nation have been recorded or affected by one action of government over the years:

1) Allotments by the Indian Reserve Commissioners.

Following confederation, the Province and the Dominion established an Indian Reserve Commission to reserve lands for the Indians and for transfer of those lands to the Dominion. In setting apart lands for reserves, the Reserve Commissioners made it their practice to allot water with the lands. It is understood that this practice was unique among Indian Reserves in Canada and the authority of the Commissioners to allot water rights has always been disputed by the Province.

HISTORY, CURRENT STATUS, AND NOTES:

The history of water rights, the current status of rights and notes for the NAMGIS First Nation with respect to the water sources on Alert Bay 1, Alert Bay 1A and Nimpkish 2 are as follows:

ALERT BAY #1, ALERT BAY #1A & NIMPKISH #2

All water sources

History:

Aug 1, 1963 Minute of Decision of the Indian Reserve Commission, constituting a reserve on Cormorant Island. Alert Bay 1, Alert Bay 1A and Nimpkish 2 are all located on Cormorant Island.

> *"The Indians to have prior right to water for household and necessary purposes, from all sources of water supply on the Island."*

Jan 28, 1882 A note was made on the Minute of Decision for the Cormorant Island reserve stating that the reserve was not accepted and to refer to a letter to the Indian Superintendent.

Current Status:

There are no active licences for the benefit of the NAMGIS First Nation on Alert Bay 1, Alert Bay 1A and Nimpkish 2.

Notes:

1. The allocation of water made by the Indian Reserve Commission, as it refers to all water sources on Cormorant Island, has not been formally recognized by the Province.

OTHER INFORMATION:

Alternate Water Sources:

i) Groundwater Records:

Review of records of the Groundwater Section finds evidence of one well on Alert Bay 1A. There is no groundwater information for the remainder of the NAMGIS First Nation's reserves. The amount of water which the well on Alert Bay 1A yields is 102 gallons a minute. Further details regarding the well Alert Bay 1A are included in the attachments of this report. The extent to which the well is utilized at this time is unknown and as provision of this information is voluntary, it cannot be assumed to be complete.

ii) Municipal Water Sources:

The proximity of Alert Bay 1, Alert Bay 1A and Nimpkish 2 to the Corporation of the Village of Alert Bay presents the potential for water supply to the Reserves via a municipal water system.

The Village of Alert Bay held a waterworks licence; however, the Village abandoned the waterworks licence in 1989 as they were planning on using groundwater sources exclusively.

Summary of Water Rights Records

NAMGIS First Nation

(Previously Nimpkish-Cormorant Island Band)

Water Source	Priority Date	Reserve Name	File No.	Document Type	Status	Superceded By	Licence PUC/MOD & OIC Allotments	Comments
"from all sources of water supply on the island"	1880/01/02	Alert Bay 1 Alert Bay 1A Nimpkish 2	AGBC #590456	MOD			"from all sources of water supply on the island"	IRC Allocations: Not formally recognized by the Province.

Kinkeesh Indians

Cormorant Island.

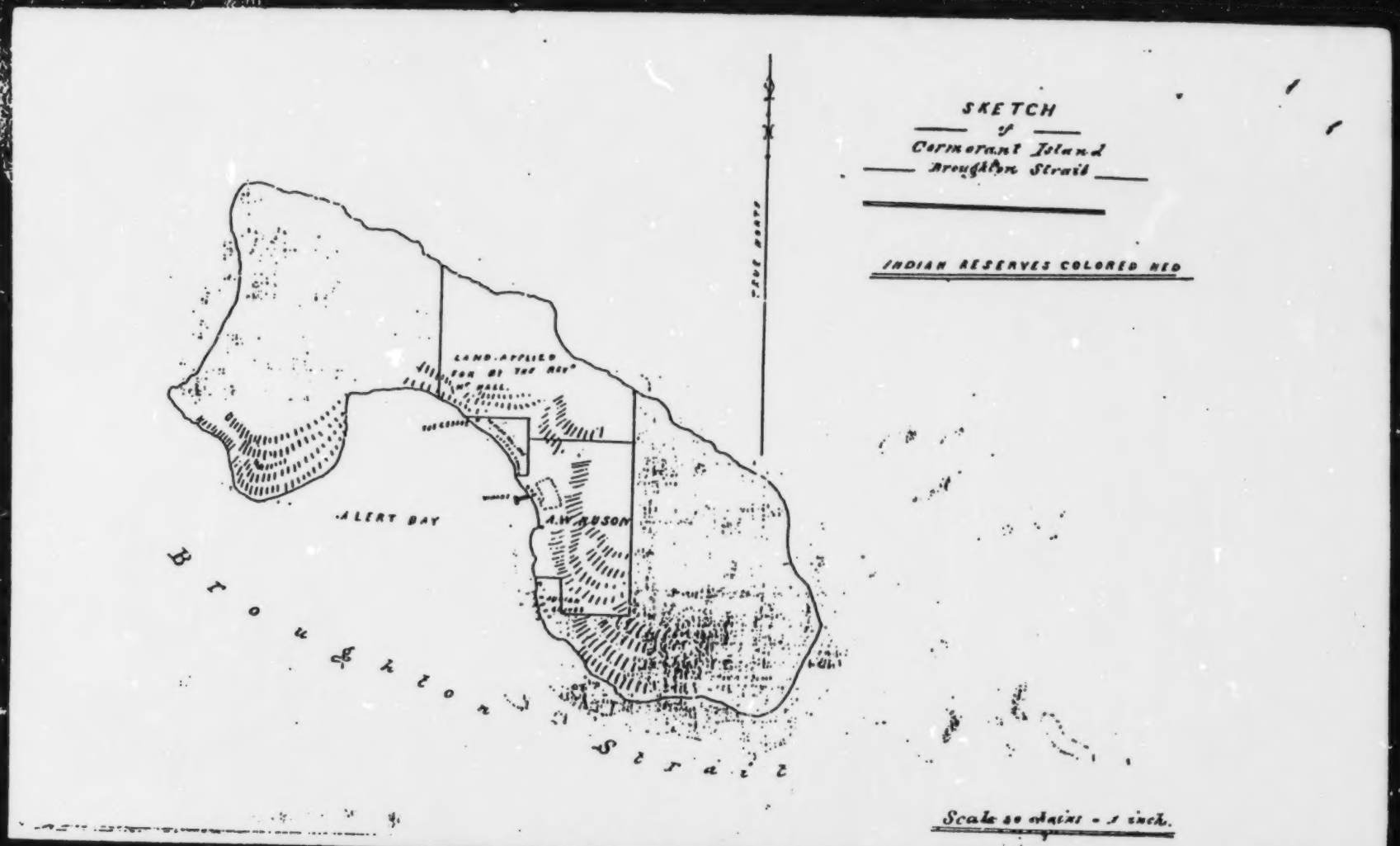
Recd. Dept. Lands & Works 11 Sept. 1882
Mem. Reserve is not a reserve
See letter to Indian Superintendent Sept. 11 1882

A Reserve consisting of the whole of the Island described in the Admiralty Chart as Cormorant Island, Broughton Strait, opposite the mouth of Kinkeesh River with the exception of the following portions of land, as shown on sketch, namely 160 acres of land on a portion of which A. McCoy-

5 June 1880 Hansen has his improvements, said 160 acres not to have more frontage on Alert Bay than from the north corner of his small potatoe patch (lying on the north side of a small stream between the stream and the Indian houses) southerly along

along shore & within two chains of the most northerly Indian grave and excepting about 160 acres of land applied for by the Government Agent Hall, which last named portion is not to have more than 10 chains frontage on Albert Bay, running westerly from the spot known as the "Cedars".

~~The Indians to have free right to wood for house hold and necessary purposes, from all sources of water supply on the Island.~~


SKETCH
of
Cormorant Island
Broughton Strait
INDIAN RESERVES COLORED RED
LAND APPLIED FOR BY THE REV. W. HALL
ALERT BAY
A.W. ROSON
Broughton Strait
Scale 80 chains = 1 inch.

BCGS Map Area	Well No.	Well Tag No.	Lot No.	Plan No.	Blk No.	TP	RC	RG	D.L.	S	X	Y	Old Well No.	L.D.	Site Address	Date Constructed (dmy)	Well Depth (ft.)	Well Diam. (in.)	Drill Contr No.	Const. Method	Well Yield	Yld. Unt.	Depth to Water (ft.)	Depth to Bedrk (ft.)	Aquif Litho	Screen Interval (ft.)	G.W. Rpt	Chem Lab	Chem Fld	Chem Site No.
092L.056.3.4.2	001	000000032432								08	12	17	001	47		01-05-1975	367.0	8.0	014	UNK	162.0	USGM	204	UNK	UNC	325-358	Y	Y	Y	1400011
092L.056.3.4.2	002	000000039505								08	12	07	001	47	HUDSON PROPERTY	01-01-1974	130.0	0.0	014	UNK	20.0	GPM	20	UNK	UNC	32-37	Y	Y		401166
092L.056.3.4.3	001	000000020046								08	12	18	001	47		14-07-1966	59.0	16.0	144	DRI	102.0	IGM	49	UNK	UNC	48-59				
092L.056.3.4.3	002	000000016224								08	12	19	001	47		01-01-1960	53.5	2.0	144	OTH			UNK	UNK	UNC					

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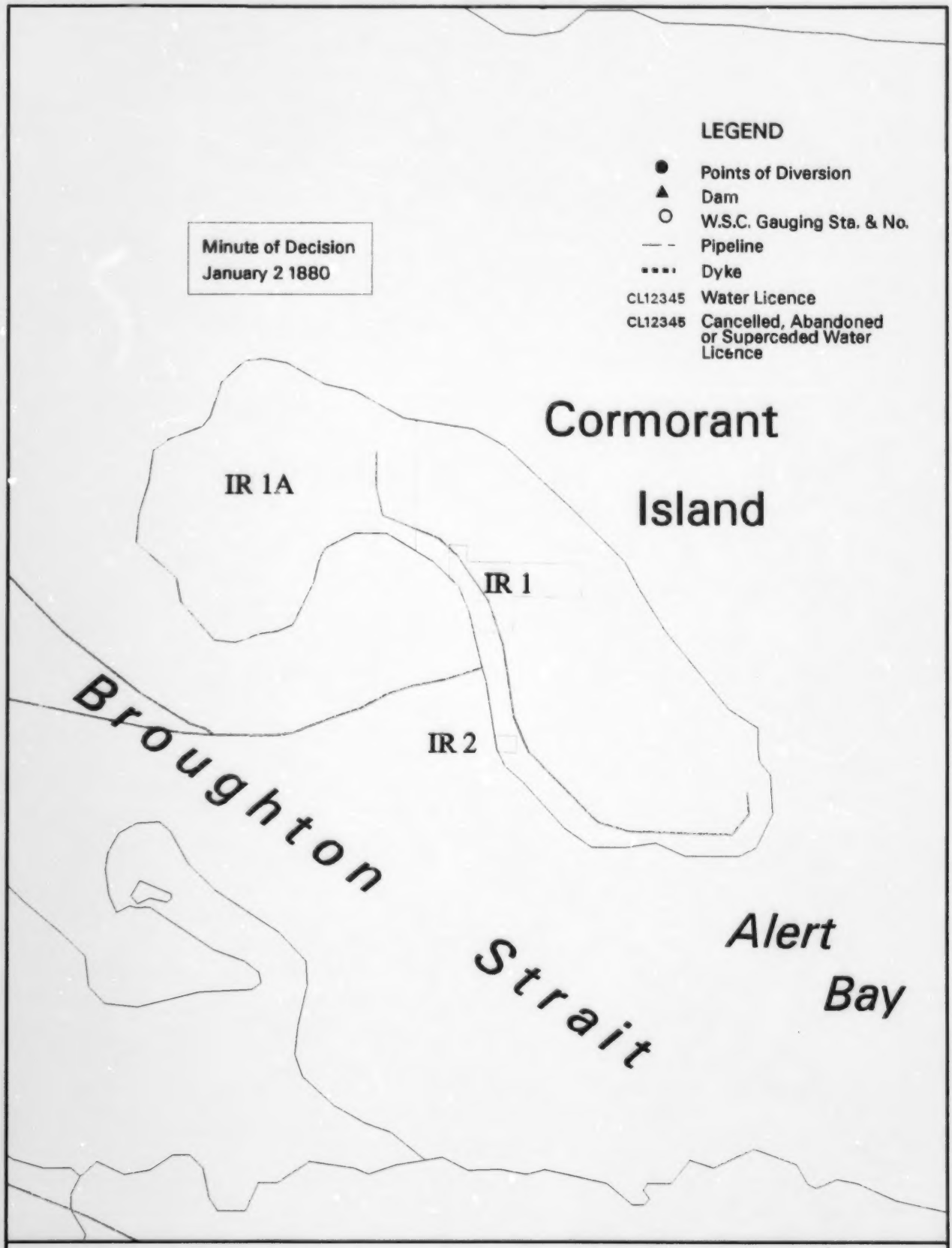

NAMGIS FIRST NATION

Scale: 1 : 30,000

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